

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DAVID MCKEW,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CGC-07-463816
)	
SAN FRANCISCO MUNICIPAL)	
RAILWAY, UNITED STATES)	
OF AMERICA, ET AL.,)	
)	
Defendants.)	

I, Gwendolyn E. Murray, make the following declaration in lieu of affidavit pursuant to 28 U.S.C. § 1746. I am aware that this declaration is the legal equivalent of a statement under oath and that it will be filed in the United States District Court for the Northern District of California.

1. I am a Tort Claim Examiner with the United States Postal Service in the National Tort Center in St. Louis, Missouri.

2. In that capacity, I have full access to, and regularly utilize, all Postal Service records that are maintained on each administrative claim submitted for adjudication to the Postal Service pursuant to the provisions of the Federal Tort Claims Act, §§ 1346(b) and 2671 et seq. regarding incidents that occur within the State of California.

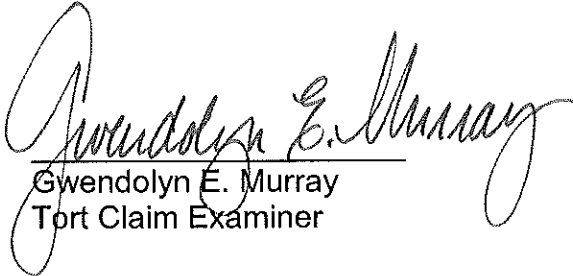
3. On February 9, 2007, the Transportation & Networks Office in San Francisco, California received a Standard Form ("SF") 95, *Claim for Damage, Injury, or Death*, from Plaintiff. A true and correct copy of said SF 95 is attached hereto as Exhibit A.

4. On May 30, 2007, Plaintiff filed a Complaint in the Superior Court of California, County of San Francisco. A true and correct copy of said Complaint is attached hereto as Exhibit B.

5. To date, the claim remains open for adjudication purposes. This claim has not yet been disposed of in any way (i.e., settled, denied, or otherwise closed.)

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 24th day of July, 2007.

By: 
Gwendolyn E. Murray
Tort Claim Examiner

**CLAIM FOR DAMAGE,
INJURY, OR DEATH**

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED
OMB NO.
1105-0008

1. Submit To Appropriate Federal Agency:

Truedell Griffin
Supervisor, Transportation Operations
San Francisco P&DC
P.O. Box 882166
San Francisco, CA 94188-2166

2. Name, Address of claimant and claimant's personal representative, if any. (See Instructions on reverse.) (Number, Street, City, State and Zip Code)

David McKew
c/o Kern, Noda, Devine & Segal
1388 Sutter Street, Suite 600
San Francisco, CA 94109

3. TYPE OF EMPLOYMENT
☐ MILITARY ☒ CIVILIAN4. DATE OF BIRTH
5/14/73

5. MARITAL STATUS

6. DATE AND DAY OF ACCIDENT
9/2/067. TIME (A.M. OR P.M.)
12:35 p.m.

8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.)

See attached.

9.

PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED.
(See Instructions on reverse side.)

10.

PERSONAL INJURY/WRONGFUL DEATH

STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT.

Mr. McKew has a broken ring finger on his left hand. He also suffered a contusion on the upper extremity of his arm and a shoulder muscle strain.

RECEIVED
FEB - 9 2007

11.

WITNESSES

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

Unknown at this time.

12. (See instructions on reverse.)

AMOUNT OF CLAIM (In dollars)

12a. PROPERTY DAMAGE

12b. PERSONAL INJURY

\$150,000.00

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause forfeiture of your rights.)

\$150,000.00

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.)

13b. Phone number of person signing form

(415) 474-1900

14. DATE OF SIGNATURE

2/2/07

CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS

The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)

Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)

EXHIBIT

A

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

Not applicable — claimant was a passenger.

16. Have you filed a claim on your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

Claim filed against City and County of San Francisco which was denied.

17. If deductible, state amount.

Not applicable.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts.)

Not applicable.

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within 90 days from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

Instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Any agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

A claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item #12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. Principal Purpose: The information requested is to be used in evaluating claims.
C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Tort Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, D.C. 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these offices.

8. Basis of Claim.

David McKew boarded cable car line 60 at Hyde Street and Green Street on September 2, 2006. The cable car was full on the inside and Mr. McKew was instructed by the driver, Melvin E. Washington (#1458), where to stand on the outside. The cable car was on Washington between Hyde and Leavenworth and there was a parked U.S. mail truck #1510241¹ crossing the safety line. The cable car driver stopped the cable car and rang the bell. The mail truck did not move and the driver decided to proceed. As the cable car passed the mail truck, the truck hit Mr. McKew from behind, breaking McKew's finger. Mr. McKew pivoted backward and his back went through the cable car window.

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

SAN FRANCISCO MUNICIPAL RAILWAY; UNITED STATES POSTAL
SERVICE; MELVIN WASHINGTON; DOE 1 TO 30

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

DAVID MCKEW

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

San Francisco Superior Court
400 McAllister Street
San Francisco, CA 94102

CASE NUMBER
07-463816

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Philip A. Segal, Esq. (SBN 137633)

Kern, Noda, Devine & Segal, 1388 Sutter Street, Suite 600, San Francisco, CA 94109

Tel: (415) 474-1900

Fax: (415) 474-0302

DATE: MAY 30 2007
(Fecha)

Clerk, by

Deborah S. [Signature]

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
- ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
- ☐ other (specify):

4. ☐ by personal delivery on (date):

EXHIBIT

B

(SEAL)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Philip A. Segal, Esq. (SBN 137633) Kern, Noda, Devine & Segal 1388 Sutter Street, Suite 600 San Francisco, CA 94109 TELEPHONE NO.: (415) 474-1900 FAX NO.: (415) 474-0302		EMERGED FILED SAN FRANCISCO COUNTY SUPERIOR COURT 2007 MAY 30 PM 1:53		CM-010 DEPT. CLERK Deborah Steppe DEPUTY CLERK
ATTORNEY FOR (Name): Plaintiff, DAVID MCKEW SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME:		RY:		
CASE NAME: DAVID MCKEW v. SAN FRANCISCO MUNICIPAL RAILWAY, et al.				
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: CGC-07-463816 JUDGE: DEPT:

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input checked="" type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (28) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	---

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|

3. Type of remedies sought (check all that apply):

- | | | |
|---|---|--------------------------------------|
| a. <input checked="" type="checkbox"/> monetary | b. <input type="checkbox"/> nonmonetary; declaratory or injunctive relief | c. <input type="checkbox"/> punitive |
|---|---|--------------------------------------|

4. Number of causes of action (specify): 1

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date:

PHILIP A. SEGAL, ESQ.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Philip A. Segal, Esq. (SBN 137633) Kern, Noda, Devine & Segal 1388 Sutter Street, Suite 600 San Francisco, CA 94109 TELEPHONE NO: (415) 474-1900 FAX NO. (Optional): (415) 474-0302 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff, DAVID MCKEW		ENDORSED FILED SAN FRANCISCO COUNTY SUTTER STREET FOR COURT USE ONLY 2007 MAY 30 PM 1:53 GORDON PARK - LL CLERK BY: <u>Deborah Steppe</u> DEPUTY CLERK DOMINIC ROOSEN CASE MANAGEMENT CONFERENCE SET NOV - 2 2007 - 9 ⁰⁰ AM DEPARTMENT 212 CASE NUMBER: CGC-07-463816
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME:		
PLAINTIFF: DAVID MCKEW DEFENDANT: SAN FRANCISCO MUNICIPAL RAILWAY; UNITED STATES POSTAL SERVICE; MELVIN WASHINGTON; <input checked="" type="checkbox"/> DOES 1 TO 30		
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input checked="" type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER (specify): <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):		
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		

1. Plaintiff (name or names): DAVID MCKEW
 alleges causes of action against defendant (name or names): SAN FRANCISCO MUNICIPAL RAILWAY; UNITED STATES
 POSTAL SERVICE; MELVIN WASHINGTON; DOES 1 TO 30
2. This pleading, including attachments and exhibits, consists of the following number of pages: 4
3. Each plaintiff named above is a competent adult
- a. ☐ except plaintiff (name):
- (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):
- b. ☐ except plaintiff (name):
- (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

PLD-PI-001

SHORT TITLE:

MCKEW v. SAN FRANCISCO MUNICIPAL RAILWAY, et al.

CASE NUMBER:

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☒ except defendant (name): San Francisco Municipal c. ☐ except defendant (name):(1) ☐ a business organization, form unknown Railway(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☒ a public entity (describe): Municipal Railway(5) ☐ other (specify):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):b. ☒ except defendant (name): United States Postal d. ☐ except defendant (name):(1) ☐ a business organization, form unknown Service(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☒ a public entity (describe): Postal Service(5) ☐ other (specify):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

i. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 1 - 20 were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☐ Doe defendants (specify Doe numbers): are persons whose capacities are unknown to plaintiff.☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

This court is the proper court because

a. ☐ at least one defendant now resides in its jurisdictional area.b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.d. ☐ other (specify):☒ Plaintiff is required to comply with a claims statute, anda. ☒ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):

SHORT TITLE:	PLD-PI-001
MCKEW v. SAN FRANCISCO MUNICIPAL RAILWAY, et al.	CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☒ Motor Vehicle
- b. ☐ General Negligence
- c. ☐ Intentional Tort
- d. ☐ Products Liability
- e. ☐ Premises Liability
- f. ☐ Other (specify):

11. Plaintiff has suffered

- a. ☒ wage loss
- b. ☒ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☒ property damage
- f. ☒ loss of earning capacity
- g. ☐ other damage (specify):

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☐ punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date:

5/13/07

PHILIP A. SEGAL, ESQ.

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

PLD-PI-001(1)

MCKEW v. SAN FRANCISCO MUNICIPAL RAILWAY, et al.

CASE NUMBER:

First

(number)

CAUSE OF ACTION—Motor VehicleATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

Plaintiff (name): DAVID MCKEW

MV- 1. Plaintiff alleges the acts of defendants were negligent; the acts were the legal (proximate) cause of injuries and damages to plaintiff; the acts occurred on (date): September 2, 2006 at (place): Washington Street between Hyde and Leavenworth, San Francisco, California.

MV- 2. DEFENDANTS

a. ☒ The defendants who operated a motor vehicle are (names):
MELVIN WASHINGTON

☒ Does 1 to 10

b. ☒ The defendants who employed the persons who operated a motor vehicle in the course of their employment are (names): SAN FRANCISCO MUNICIPAL RAILWAY; UNITED STATES POSTAL SERVICE

☒ Does 11 to 30

c. ☒ The defendants who owned the motor vehicle which was operated with their permission are (names):
SAN FRANCISCO MUNICIPAL RAILWAY; UNITED STATES POSTAL SERVICE

☒ Does 11 to 30

d. ☒ The defendants who entrusted the motor vehicle are (names):
SAN FRANCISCO MUNICIPAL RAILWAY; UNITED STATES POSTAL SERVICE

☒ Does 11 to 30

e. ☒ The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):
SAN FRANCISCO MUNICIPAL RAILWAY; UNITED STATES POSTAL SERVICE; MELVIN WASHINGTON

☒ Does 1 to 30

f. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are
☐ listed in Attachment MV-2f ☐ as follows:

☐ Does to

Page 4

CIV-050

- DO NOT FILE WITH THE COURT -
- UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Philip A. Segal, Esq. (137633) Kern, Noda, Devine & Segal 1388 Sutter Street, Suite 600 San Francisco, CA 94109 TELEPHONE NO.: 415-474-1900	FOR COURT USE ONLY
ATTORNEY FOR (name): Plaintiff, DAVID MCKEW	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME:	
PLAINTIFF: DAVID MCKEW DEFENDANT: UNITED STATES POSTAL SERVICE	
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)	
CASE NUMBER: CGC-07-463816	

To (name of one defendant only):
 Plaintiff (name of one plaintiff only):
 seeks damages in the above-entitled action, as follows:

1. General damages

- | | AMOUNT |
|---|---------------|
| a. <input checked="" type="checkbox"/> Pain, suffering, and Inconvenience | \$ 500,000.00 |
| b. <input type="checkbox"/> Emotional distress | \$ |
| c. <input type="checkbox"/> Loss of consortium | \$ |
| d. <input type="checkbox"/> Loss of society and companionship (wrongful death actions only) | \$ |
| e. <input type="checkbox"/> Other (specify) | \$ |
| f. <input type="checkbox"/> Other (specify) | \$ |
| g. <input type="checkbox"/> Continued on Attachment 1.g. | |

2. Special damages

- | | |
|--|---------------|
| a. <input checked="" type="checkbox"/> Medical expenses (to date) | \$ 100,000.00 |
| b. <input checked="" type="checkbox"/> Future medical expenses (present value) | \$ 100,000.00 |
| c. <input checked="" type="checkbox"/> Loss of earnings (to date) | \$ 100,000.00 |
| d. <input checked="" type="checkbox"/> Loss of future earning capacity (present value) | \$ 250,000.00 |
| e. <input type="checkbox"/> Property damage | \$ |
| f. <input type="checkbox"/> Funeral expenses (wrongful death actions only) | \$ |
| g. <input type="checkbox"/> Future contributions (present value) (wrongful death actions only) | \$ |
| h. <input type="checkbox"/> Value of personal service, advice, or training (wrongful death actions only) | \$ |
| i. <input type="checkbox"/> Other (specify) | \$ |
| j. <input type="checkbox"/> Other (specify) | \$ |
| k. <input type="checkbox"/> Continued on Attachment 2.k. | |

3. ☐ **Punitive damages:** Plaintiff reserves the right to seek punitive damages in the amount of (specify) \$ _____ when pursuing a judgment in the suit filed against you.

Date: 06/13/07

PHILIP A. SEGAL

(TYPE OR PRINT NAME)

(Proof of service on reverse)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

Page 1 of 2

STATEMENT OF DAMAGES
 (Personal Injury or Wrongful Death)

Code of Civil Procedure, §§ 425.11, 425.115
 www.courtinfo.ca.gov